IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRI. APPLICATION NO. 4361 OF 2004

Mr. Mansinh M. Garasiya & Ors. ..Applicants.

V/s.

The State of Maharashtra .. Respondent.

Shri Shrish Gupte, Sr. Counsel for Applicants.
Shri K.V. Saste, APP for Respondent.

CORAM : A.M.KHANWILKAR, J.
DATED : 12.10.2004

PC :-

. Heard the learned counsel for the parties.

. The limited grievance that needs to be addressed in this petition is that although the anticipatory bail application preferred by the applicant is pending consideration before the Sessions Judge at Kolhapur, no interim protection has been granted to the petitioner. The Sessions Judge has declined to grant interim relief as can be seen from order dated 5th October, 2004, as the allegations against the applicants are in respect of cheating of account in lacs. To my mind, this approach is inappropriate If the Sessions Judge was not inclined to entertain the application, he should have dismissed

the application in its entirety. But refusing the interim protection is exposing the applicant's to the threat of arrest by the police in connection with C.R.No.50/2004 registered with the MIDC Police Station, Shirole, Kolhapur -for this purpose alone the applicant had moved under section 438 of the Cr.P.C.. In this situation, the appropriate course, to my mind, is to protect the petitioners/applicants till the Sessions Judge takes the pending bail Application Nos. 428/2004 and 429/2004 respectively, for hearing. It is however, made clear that the Applicants shall co-operate the investigation of the case and should appear before the Investigating Officer as and when required.

. The Application is allowed by issuing direction that the Applicants not to be arrested till disposal of the bail application Nos. 428/2004 and 429/2004, which are pending before the Sessions Court at Kolhapur.

. Shri Gupte submits that the Applicants 11, 12 and 17 are Directors of the Company and their appearance before the Sessions Court be dispensed with. That request be made before the appropriate

court, who will consider the same in accordance with the law.

. At this stage, the learned APP points out that he has no instruction whether any of the Applicants has been arrested after passing of the order dated 5.10.2004. Shri Gupte for the Applicants states that none of the applicants have been arrested so far. It is, therefore, clarified that the interim protection given to the applicants will enure only if the Applicants have not been arrested so far.

. Shri Gupte prays that in the event, Sessions Court, passes adverse order against the Applicants, further protection for a period of three days be provided to the Applicants to enable the Applicants to approach this Court, if so advised. The request seems to be reasonable. The same is granted.

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